

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**ADOLPH MENJIVAR,
Petitioner,**

v.

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CASE NO. 3:18-CV-2419-D

**LORIE DAVIS,
Director, TDCJ-CID,
Respondent.**

ORDER

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. Petitioner has filed objections, and the court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made and has reviewed the remaining portions for plain error. The objections are overruled, and the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

It is therefore ordered that the petition for habeas corpus under 28 U.S.C. § 2254 is denied.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable

whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

- () petitioner may proceed *in forma pauperis* on appeal.
- (X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

December 17, 2019.



SIDNEY A. FITZWATER
SENIOR JUDGE